

REMARKS/ARGUMENTS

Claims 1–17 are pending in the instant application. Claims 1–17 stand rejected under 35 U.S.C. §102(a) as being anticipated by Kamb et al. (PCT International Application Number WO98/26098).

Claim 1 has been amended. Applicants have amended claim 1 in view of the Examiner's Response to Arguments, to introduce features of Applicants' invention not explicitly recited in the rejected claims. Applicants respectfully assert that all amendments are properly based on the specification and earnestly request their entry.

In previously addressing this rejection, Applicants argued that the Kamb et al. reference does not disclose the current invention. Applicants pointed out that, in fact, an additional step has to be taken to determine "the identity of nucleic acid molecules" of interest.

In the Response to Arguments, the Examiner noted, "the features upon which applicant relies (i.e., (i) each bead of a detectable type carries the same known nucleic acid sequence and (ii) subsequent analysis of the beads in the mixture by flow cytometry, allows direct quantification of the relative abundance of any specific, known target) are

not recited in the rejected claim(s).” In response, Applicants have amended claim 1 to introduce these features. Support for these amendments can be found throughout the specification, especially in lines 25 – 28 of page 4, lines 22-23 of page 5, lines 30 – 33 of page 6, and lines 5 – 8 of page 12.

In the Response to Arguments, the Examiner stated, “Applicants’ argument is not persuasive.” The Examiner continued: “(1) the novelty of the invention of step to determine ‘the identity of nucleic acid molecules’ of interest is missing from claim 1(d).” The Examiner also stated, “(2) In presence of open ‘comprising’ language of the claim any additional step(s) or material can be included in the method steps of the claimed invention... .” In response, Applicants have amended claim 1(d) to clearly include the novelty of the invention, e.g., the identity of each bead, and the relative abundance of each target sequence from each of the two sources are readily detected by flow cytometry. Applicants have also amended claim 1(b) to further clarify such novelty of the invention, clearly stating in claim 1(b) that the polynucleotide target is of known sequence, and the beads of any one of the pooled reagents is distinguishable from the beads of any other of the pooled reagents by flow cytometry.

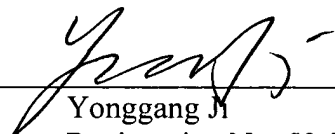
In view of the foregoing, Applicants respectfully assert that the Examiner’s rejection cannot be sustained and should be withdrawn.

In view of the amendments and remarks hereinabove, Applicants respectfully submit that claims 1-17 of the present application is in condition for allowance. Early and favorable action thereon is respectfully requested.

Any questions with respect to the foregoing may be directed to the undersigned at the telephone number listed below.

Respectfully submitted,


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Signature: 
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